

8687
DECISIONTHE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548
H. Volpe
PLM F

[Claim for Real Estate Expenses May Not Be Allowed When 2-year Time Limitation is Not Met]

FILE: B-193340

DATE: December 26, 1978

MATTER OF: David Oberwager - Real Estate Expenses - Time
Limitation

DIGEST: Employee, who transferred to new duty station, did not complete settlement on sale of residence at old duty station within 2 years of effective date of transfer. Claim for real estate expenses may not be allowed since 2-year time limitation imposed by para. 2-6.1e of Federal Travel Regulations has force and effect of law and may not be waived or modified.

A6C00033 This action is in response to the appeal by Mr. David Oberwager of the determination of our Claims Division denying his claim for real estate expenses incident to his transfer to a new duty station. The Claims Division settlement, dated September 26, 1978, denied Mr. Oberwager's claim on the basis that the settlement date for the sale of his residence at the old duty station was beyond the 2-year time limitation contained in the Federal Travel Regulations (FPMR 101-7) (May 1973).

The record indicates that Mr. Oberwager, an employee of the Department of the Interior, was transferred from Douglas, Wyoming, to Grand Junction, Colorado, and that he reported for duty at his new duty station on October 26, 1975. Mr. Oberwager was granted a 1-year extension of time to complete the sale of his residence at his old duty station, but, due to various delays, involving appraisal and approval of financing by the Veterans Administration, the settlement date was beyond the required 2-year period.

The reimbursement of relocation expenses for Federal employees is governed by 5 U.S.C. 5724a(1970) and the implementing regulations contained in the Federal Travel Regulations. The applicable regulation governing the time limitation on residence transactions incident to a transfer of duty stations is contained in para. 2-6.1e which provides as follows:

"Time limitation. The settlement dates for the sale and purchase or lease termination transactions for which reimbursement is requested are not later than 1 (initial) year after the date on which the employee reported for duty at the new official station. Upon an employee's written request this time limit for completion of the sale and purchase or lease termination transaction may be

~~002917~~

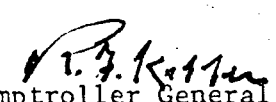
dec

B-193340

extended by the head of the agency or his designee for an additional period of time, not to exceed 1 year, regardless of the reasons therefor so long as it is determined that the particular residence transaction is reasonably related to the transfer of official station." (Emphasis added).

Because Mr. Oberwager failed to meet the 2-year time limitation, there is no authority for the reimbursement of expenses incurred in connection with the sale of his residence. The above-quoted regulation was promulgated under the authority of 5 U.S.C. 5724a and has the force and effect of law. This regulation may not be waived or modified by either the employing agency or our Office in any individual case, regardless of the circumstances present. See Gabriel C. Brazao, B-188670, January 3, 1978; Johnnie M. Black, B-189775, September 22, 1977, and decisions cited therein.

Accordingly, we sustain the Claims Division settlement denying Mr. Oberwager's claim for reimbursement of real estate expenses.


Acting Comptroller General
of the United States



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

M. Volpe
PLM I

IN REPLY
REFER TO: B-193340

December 26, 1978

The Honorable Floyd K. Haskell
United States Senator
Room 139, Federal Building
402 Rood Avenue
Grand Junction, Colorado 81501

Dear Senator Haskell:

Further reference is made to your inquiry dated October 10, 1978, regarding the claim of Mr. David Oberwager for reimbursement of real estate expenses.

By decision of today, B-193340, copy enclosed, we have sustained the action of our Claims Division in disallowing Mr. Oberwager's claim where the residence transaction was not completed within the 2-year time limitation.

Sincerely yours,

Acting

R. G. K. H.
Comptroller General
of the United States

Enclosure

Memorandum

TO : Director, Claims Division

December 26, 1978

FROM : Acting
Comptroller General

ATK: 1/1/79

SUBJECT: David Oberwager - Claim for Real Estate Expenses -
B-193340 - O.M.

Returned herewith is file Z-2803338 along with a copy of our decision of today, B-193340, sustaining the Claims Division settlement denying reimbursement for real estate expenses. Also attached is a copy of our letter to Senator Haskell.

Attachments - 3